

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY JUNE 28, 2009

AMENDED IN ASSEMBLY JUNE 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Constitutional Amendment

No. 13

**Introduced by Assembly Member Hernandez
(Coauthor: Assembly Member Adams)**

February 27, 2009

Assembly Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of Article II thereof, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

ACA 13, as amended, Hernandez. Initiatives.

The California Constitution provides voters, through the initiative, the power to propose statutes and constitutional amendments and to adopt or reject them. An initiative measure may be proposed by presenting the Secretary of State a certified petition signed by electors equal in number to 5% in the case of a proposed statute, and 8% in the case of a proposed constitutional amendment, of the votes for all candidates for Governor at the last gubernatorial election. The Secretary of State is required to submit an initiative measure at the next general election held at least 131 days after it qualifies or at a special statewide election held prior to that general election.

This measure would require the Secretary of State, upon being presented with a petition for an initiative measure, to immediately transmit the initiative measure to the Legislature. Upon transmittal to

the Legislature, the initiative measure would be assigned to the appropriate committees of each house for analysis and public hearings and, by concurrent resolution, the Legislature could amend the initiative measure in a manner consistent with the intent of the initiative measure if the proponent of the initiative measure accepts the amendments of the Legislature. The measure would provide that an initiative measure could be returned to the Secretary of State for placement on the ballot pursuant to the Legislature's adoption of a concurrent resolution by a majority vote in each house in the case of a statute, or a $\frac{2}{3}$ vote in each house in the case of a constitutional amendment.

This measure would also provide that an initiative measure that only proposes a statute may be introduced as a bill and, if it is enacted and the proponent of the initiative measure accepts any amendments by the Legislature, the initiative measure would not be submitted to the voters.

This measure would provide that if an initiative measure transmitted to the Legislature, or a part of the measure, proposes an amendment to the Constitution, the Legislature may, by concurrent resolution, amend the part of the measure that proposes an amendment to the Constitution. If the proponent or a majority of the proponents of the initiative measure accept the amendments of the Legislature, the Legislature may return the measure, as amended, to the Secretary of State.

This measure would provide that if an initiative measure transmitted to the Legislature, or a part of the measure, proposes a statute, that part of the initiative measure that proposes a statute may be introduced in the Legislature as a bill. The measure would further provide that if the bill is enacted as a statute and the proponent or a majority of the proponents of the initiative measure accept the bill as enacted, the part of the initiative measure that proposes a statute would not be submitted to the electors.

This measure would require, if the Legislature returns the Legislature's return of a certified initiative measure to the Secretary of State within 30 legislative session days, as defined, and if the initiative measure is certified to have been signed by the requisite number of electors, or it would be deemed to have been returned in the same form as originally submitted by the proponents. The bill would require that the a returned initiative measure that is certified, including any proposed amendment by the Legislature to constitutional provisions that is accepted by proponents, be submitted at the next general election that

is at least 131 days after the date the initiative measure *it* is returned or at any special statewide election held prior to that general election.

~~This measure would provide, alternatively, if the Legislature does not return the initiative measure by that deadline, that the Secretary of State place the initiative measure on the ballot only if the initiative measure is certified, after the deadline, to have been signed by electors equal in number to 10% in the case of a proposed statute, and 16% in the case of a proposed constitutional amendment, of the votes for all candidates for Governor at the last gubernatorial election. The measure would specify that an opportunity be provided after that deadline, as specified by statute, for the gathering of additional signatures for this purpose.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular
3 Session commencing on the first day of December 2008, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California that the Constitution of the
6 State be amended as follows:
7 That Section 8 of Article II thereof is amended to read:
8 SEC. 8. (a) The initiative is the power of the electors to
9 propose statutes and amendments to the Constitution and to adopt
10 or reject them.
11 (b) An initiative measure may be proposed by presenting to the
12 Secretary of State a petition that sets forth the text of the proposed
13 statute or amendment to the Constitution and is certified to have
14 been signed by electors equal in number to 5 percent in the case
15 of a statute, and 8 percent in the case of an amendment to the
16 Constitution, of the votes for all candidates for Governor at the
17 last gubernatorial election.
18 (c) Upon presentation of a petition to the Secretary of State
19 pursuant to subdivision (b), the Secretary of State immediately
20 shall transmit the initiative measure to the Legislature prior to
21 certification of the signatures of electors. The measure shall be
22 assigned to the appropriate committees in the Senate and Assembly
23 for analysis. Within 20 legislative session days after transmittal
24 of the measure to the Legislature, the appropriate committees of
25 the Senate and Assembly shall commence joint public hearings

1 on the subject of the measure. The Legislature at any time may,
2 by concurrent resolution, amend the measure in a manner consistent
3 with the intent of the measure if the proponent of the measure
4 accepts the amendments of the Legislature. If the measure only
5 proposes a statute, it may be returned to the Secretary of State
6 pursuant to subdivision (c) only by a concurrent resolution adopted
7 by the Legislature, a majority of the membership of each house
8 concurring. If the measure proposes an amendment to the
9 Constitution, it may be returned to the Secretary of State pursuant
10 to subdivision (c) only by a concurrent resolution adopted by the
11 Legislature, two-thirds of the membership of each house
12 concurring.

13 (d) An initiative measure transmitted to the Legislature pursuant
14 to subdivision (c) that only proposes a statute may be introduced
15 in the Legislature as a bill. If the bill is enacted as a statute and the
16 proponent of the initiative measure accepts any amendments of
17 the Legislature, and so informs the Secretary of State, the initiative
18 measure shall not be submitted to the electors.

19 (e) If the Legislature returns the initiative measure to the
20 Secretary of State within 30 legislative session days after the
21 measure is transmitted to the Legislature, and the measure is
22 certified to have been signed by the requisite number of electors
23 pursuant to subdivision (b), the Secretary of State shall submit the
24 measure, including any proposed amendment, at the next general
25 election held at least 131 days after it is returned to the Secretary
26 of State or at any special statewide election held prior to that
27 general election. The Governor may call a special statewide
28 election for the measure.

29 (f) If the Legislature does not return the initiative measure to
30 the Secretary of State within 30 legislative session days after the
31 measure is transmitted to the Legislature, the Secretary of State
32 shall submit the measure to the electors only if the measure is
33 certified, on or after that deadline, to have been signed by electors
34 equal in number to 10 percent in the case of a statute, and 16
35 percent in the case of an amendment to the Constitution, of the
36 votes for all candidates for Governor at the last gubernatorial
37 election. The proponents of the initiative measure shall be provided
38 the opportunity subsequent to that deadline, as specified by statute,
39 to gather signatures of electors for the purposes of this subdivision.
40 The Secretary of State shall submit the measure at the next general

1 ~~election or at any special statewide election held prior to that~~
2 ~~general election that is at least 131 days after the date of~~
3 ~~certification pursuant to this subdivision. The Governor may call~~
4 ~~on the subject of the measure.~~

5 *(d) If an initiative measure transmitted to the Legislature*
6 *pursuant to subdivision (c), or a part of that measure, proposes*
7 *an amendment to the Constitution, the Legislature may, by*
8 *concurrent resolution, amend the part of the measure that proposes*
9 *an amendment to the Constitution. If the proponent, or a majority*
10 *of the proponents, if applicable, of the measure accept the*
11 *amendments of the Legislature, and so inform the Secretary of*
12 *State, the Legislature may return the initiative measure, as*
13 *amended, to the Secretary of State pursuant to subdivision (f).*

14 *(e) If an initiative measure transmitted to the Legislature*
15 *pursuant to subdivision (c), or a part of that measure, proposes a*
16 *statute, the part of the measure that proposes a statute may be*
17 *introduced in the Legislature as a bill. If the bill, including any*
18 *amendments adopted by the Legislature, is enacted as a statute*
19 *and the proponent, or a majority of the proponents, if applicable,*
20 *of the initiative measure accept the bill as enacted, and so inform*
21 *the Secretary of State, the part of the initiative measure that*
22 *proposes a statute shall not be submitted to the electors.*

23 *(f) The Legislature shall return an initiative measure, except as*
24 *provided in subdivision (e), to the Secretary of State within 30*
25 *legislative session days after the measure is transmitted to the*
26 *Legislature. If the measure is not returned within 30 legislative*
27 *session days, it shall be deemed to have been returned in the same*
28 *form as it was initially presented to the Secretary of State. Except*
29 *as provided in subdivision (e), the Secretary of State shall submit*
30 *a returned measure that is certified pursuant to subdivision (b),*
31 *including any accepted amendments, at the next general election*
32 *held at least 131 days after it is returned to the Secretary of State*
33 *or at any special statewide election held prior to that general*
34 *election. The Governor may call a special statewide election for*
35 *the measure.*

36 *(g) An initiative measure embracing more than one subject may*
37 *not be submitted to the electors or have any effect.*

38 *(h) An initiative measure may not include or exclude any*
39 *political subdivision of the State from the application or effect of*
40 *its provisions based upon approval or disapproval of the initiative*

1 measure, or based upon the casting of a specified percentage of
2 votes in favor of the measure, by the electors of that political
3 subdivision.

4 (i) An initiative measure may not contain alternative or
5 cumulative provisions wherein one or more of those provisions
6 would become law depending upon the casting of a specified
7 percentage of votes for or against the measure.

8 (j) For ~~purpose~~ *purposes* of this section, “legislative session
9 day” means a day on which the Members of both houses of the
10 Legislature are required to be in Sacramento to attend a session of
11 the Legislature.